IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19618 of 2002
Date of Decision: November 09, 2006

Dr.Parminder Singh son of Naranjan Singh, resident of House No.8, Village Biring, P.O. Jalandhar Cantt., District Jalandhar

.....Petitioner

VERSUS

1.Guru Nanak Dev University Amritsar, through its Registrar, Amritsar.

2.Sh.Rajesh Sharma, Lecturer, Department of Music, Guru Nanak Dev University, Amritsar

.....Respondents

CORAM:- HON'BLE MR.JUSTICE K S GAREWAL
HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr.BS Bhalla, Advocate
for the petitioner.

Mr.DS Patwalia, Advocate
for respondent No.1.

Mr.BR Mahajan, Advocate
for respondent No.2.

R S MADAN, J.

By filing the Civil Writ Petition No.19618 of 2002, the petitioner has sought this Court to exercise its jurisdiction under Article 226 of the Constitution of India for issuing a writ, order or direction, especially in the nature of Certiorari for quashing the appointment of respondent No.2

as Music Lecturer by respondent No.1 being illegal, arbitrary, discriminatory and further the writ of mandamus directing respondent No.1 to consider the petitioner for the post of Music Lecturer, being more qualified and meritorious.

It is further the case of the petitioner that the advertisement No.2/2001 was published in the Classified, Newspaper by respondent No.1 for the post of Lecturer(Music), on 21-7-2001, copy of which is annexed as Annexure P-1, in which the applications were invited for the post of Lecturer (Music) at Sr.No.1, which were to reach in the Office of respondent No.1 latest by 14-8-2001. It is also mentioned therein that the said post was reserved only for the handicapped person/blind, in the Grade of Rs.8000-13500/-. Respondent No.2 was appointed on adhoc basis on 8-8-2001 without following the proper procedure and his selection amounted to backdoor entry.

It is further the case of the petitioner is that he is M.A., M.Phil and Ph.D. in Music (Vocal) from Kurukshetra University and copies of degrees of M.A., M.Phil and Ph.D. in Music(Vocal) from Kurukshetra University are annexed as Annexures P3, P4 and P5 respectively. He is suffering from 75% permanent disability, as is evident from the disability certificate (Annexure P2) issued by the Civil Surgeon, Jalandhar on 14-9-2000.

In pursuant to the said advertisement, 7 persons had applied for the aforesaid post but only 6 persons were called for the interview excluding the petitioner. According to the petitioner, he being highly qualified and more meritorious deserves the post of Lecturer. Therefore, the action of respondent No.1 is against the principle of natural

justice in ignoring the claim of the petitioner.

Upon notice, respondents appeared and two sets of written statements have been filed.

In written statement filed on behalf of respondent No.1, it was denied that the selection of Rajesh Sharma-respondent No.2 is a backdoor entry but his appointment has been made by the Selection Committee on merits. In fact, the petitioner along with respondent No.2 participated in the selection process and as per the recommendations of outcome of the result by the Selection Committee, he cannot now challenge the said selection. In fact, respondent No.2 had worked as Lecturer in Music (Vocal) on adhoc basis from 24-8-2001 to 30-4-2002 on fixed salary of Rs.10,000/-. This appointment had been made by the Vice Chancellor of the University on the recommendations of the Head of Department of Music against an existing vacant post and the same was later approved by the Syndicate of the University in its meeting held on 27-9-2001. This post was again advertised by advertisement No.1/2002 and published in the "Tribune" newspaper on 15-6-2002. Thereafter again the selection process as prescribed under the Rules and Regulations was followed and the Selection Committee recommended the name of Rajesh Sharma-respondent No.2. Resultantly, he was offered appointment as Lecturer in Music (Vocal) by the Vice Chancellor from 11-7-2002 to 31-3-2003 at a fixed salary of Rs.10,000/- per month. This appointment was also approved by the Syndicate in its meeting held on 23-8-2002.

It is the case of the respondent that under the statute 9.1 (i) of GNDU Calendar, 1999, Volume 1 page 22, the Vice Chancellor has the power to make an emergent temporary appointment for a period not

exceeding one year Respondent No.2 is not only M.A. Music but has also qualified the UGC Test (Net) which is essential for the post of Lecturer. His qualification and experience as per the application form has also been taken into consideration. He falls under the category of blind person with 100% disability being blind by both eyes after Bomb blast injury, as is evident from the disability certificate (Annexure-R2/9) issued by the Civil Surgeon, Amritsar.

Even then the petitioner has also appeared for the second advertisement in which 11 candidates had applied for the post of Music teacher, out of which 8 candidates appeared for the interview including the petitioner before the Selection Committee. The Selection Committee after considering on the merits of the candidates, again recommended the name of respondent No.2, who was offered appointment as Lecturer (Music) by the Vice Chancellor from 11-7-2002 to 31-3-2003 at a fixed salary of Rs.10,000/- per month. Even this appointment was also approved by the Syndicate in its meeting held on 23-8-2002.

Respondent No.2 has also taken up the similar plea by describing the details of his academic qualifications and experience.

The only grievance of the petitioner is that he has not been called for the interview by the Selection Committee. He is more qualified candidate than respondent No.2. On the asking of the Court to the learned counsel for the petitioner that the respondents are in possession of the interview proceedings of the candidates made by the Selection Committee as well as that after the Selection Committee recommended the name, the same was approved by the Syndicate where the name of the petitioner was also figured as one of the candidates, who has appeared in

interview before the Selection Committee, upon which the learned counsel was unable to convince us that the petitioner has not appeared before the Selection Committee.

We are of the view that a person's qualification and eligibility for the appointment is not the only criteria which is to be taken into consideration. It is the wisdom of the Selection Committee which has to see suitability as well as merit of the candidate and his/her performance while making a selection for the post of Lecturer as Music Teacher. No infirmity and illegality in the process of selection has been brought to our notice by the learned counsel for the petitioner.

In net result, we do not find any merit in this writ petition and the same is hereby dismissed.

(R S MADAN)
JUDGE

(K S GAREWAL)
JUDGE

November 09, 2006
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